

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2357
(Senators Flakoll, Freborg, J. Lee)
(Representatives Clark, R. Kelsch, Thoreson)

AN ACT to amend and reenact section 15.1-15-08 of the North Dakota Century Code, relating to discharge for cause.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-15-08. Discharge for cause - Hearing.

1. If the board of a school district contemplates the discharge for cause of an individual employed as a teacher, a principal, or as an assistant or associate superintendent, ~~prior to before the expiration of the individual's contract, the board shall provide written notice to the individual at least ten days prior to the discharge date. The notice must:~~
 - a. ~~State the date and time at which the board will conduct a special hearing to address charges against the individual; and~~
 - b. ~~State that the individual may demand a list of the charges.~~
2. ~~If the individual demands~~ petition the director of the office of administrative hearings for appointment of an administrative law judge to preside over the hearing. The administrative law judge shall set the time and place of the hearing, direct the board to publish notice of the hearing, and direct the board to provide to the individual a list of charges under subsection 1, the board shall furnish the list to the individual at least five days before the hearing.
3. ~~If the individual notifies the board in writing at least two days before the hearing that the individual intends to contest the charges, the board shall produce evidence of the charges at the hearing, together with witnesses who are subject to cross examination by the individual or by a representative of the individual.~~
4. ~~If a witness is a minor and if it is the wish of the witness or the witness's parent, the witness may be accompanied by legal counsel and a parent.~~
5. ~~At the hearing, the individual may produce evidence and witnesses to refute any charges. Any witnesses produced by the individual are subject to cross examination.~~
6. 2. The Except as otherwise provided in this section, the hearing must be conducted in accordance with chapter 28-32.
7. 3. Unless otherwise agreed to by the board and the individual, the administrative law judge shall close the hearing must be conducted as an executive session of the board, except that:
 - a. ~~The individual may invite to the hearing any two representatives and the individual's spouse or one other family member; and~~
 - b. ~~The board may invite to the hearing any two representatives, the school business manager, and the school district superintendent, except for the parties, their legal~~

representatives, witnesses, three invitees requested by the individual, and three invitees requested by the board.

8. 4. The individual subject to the discharge may request one continuance. If a continuance is requested, the ~~board of the school district~~ administrative law judge shall grant the continuance not in excess of seven days. Upon a showing of good cause by the individual, the ~~board~~ administrative law judge may grant a continuance in excess of seven days.
9. 5. No cause of action for libel or slander may be brought regarding any communication made in an executive session of the board held for the purposes provided in this section.
6. At the conclusion of the hearing, the administrative law judge shall provide all evidence presented at the hearing to the board in order that the board may make a determination regarding the discharge.
7. A determination of the board under this section may be appealed to the district court.
8. All costs of the services provided by the administrative law judge, including reimbursement for expenses, are the responsibility of the board.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2357.

Senate Vote: Yeas 43 Nays 3 Absent 1

House Vote: Yeas 93 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State